



RAVALLI COUNTY ATTORNEY

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TO: Shaun Morrell
CC: Karen Hughes
County Commissioners ✓
FROM: Alex Beal, Deputy AB
DATE: April 25, 2007



RE: Legal status of Eight Mile Creek Road near Saddle Hills Subdivision

Shaun,

As an introductory note, this is a rather simplified version of all of the facts, and no one should rely upon them as an exact statement of where things are.

Thank you for taking the time to meet with me today about this request. The road petitions in question run along what is now 8 Mile Creek Road, leading from what is presently the Eastside Highway, north along 8 Mile Creek Road, then east along 8 Mile Creek Road to a spot west of Upper Woodchuck Lane, but beyond the end of the Saddle Hills proposed subdivision. The portion of 8 Mile Creek Road running north/south is the "Woodgerd Petition" while the east/west portion is the "Jamieson Petition."

For the County to create a road, there needs to be a petition to open the road, the appointment of viewers by the commissioners, a public hearing, and an order of the commissioners to open the road. Some of the pages of the commissioners' journals are unreadable or very nearly so. However, it seems clear from my review of the record that viewers were appointed for both sections of 8 Mile Creek Road. It also seems clear that the Jamieson Petition was approved as well. I am less certain as to the result of the Woodgerd viewers. While it may be that the viewers returned and gave their report to the commissioners, that a hearing was held, and the road adopted, we do not have any information to support that at present.

Therefore, I can say that based upon use there is, at worst, a public easement as wide as the traditional use, from the Eastside Highway up to where 8 Mile Creek Road turns 90 degrees east. From that point, through to the end of the "Jamieson Petition" there is an adopted county road. If there is further research, I will gladly consider it.

-Alex Beal